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ABSTRACT

The 1925 Scopes trial and H. L. Mencken's published opinions about it provides an excellent example for both scholar and student alike to study issues of free speech, justice, publicity, public relations, and cutting journalistic writing. "Tennessee v. John Thomas Scopes was a Mencken extravaganza; he gave the trial its derisive name and described it as "colossal buffoonery." A review of the developments of the trial shows that it is more complex than it is generally understood to be. It sprang from questionable purposes; all parties concerned held dubious motivations and goals. Dayton's townspeople were swindled by an eager desire for fame and greedy hopes for local prosperity from a public relations-backed publicity spectacle. The publicity generated a carnival-like atmosphere that made their town and themselves the laughingstock of the nation. Like the young and inexperienced teacher John Scopes, the people of Dayton were willing, ill-used pawns in an enterprise they did not understand. Nevertheless, the Scopes trial and Mencken's commentary provide valuable lessons 70 years after the event. Civil repression remains abundantly evident and pervasive whether from zealots of fundamentalism, McCarthyism, or modern political correctness and requires vigilant and vigorous opposition. The message of the Scopes trial endures as a monument to Mencken; his legacy provides a metaphor for all individuals to protect and preserve their right of expression--to speak, to write, and to think--against any threat to freedom. (Contains 15 references.) (TB)

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ANATOMY of the SCOPES TRIAL:

MENCKEN'S MEDIA EVENT

A Paper Presented at the Annual Summer Meeting of the

MENCKEN SOCIETY

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Anatomy of the Scopes Trial:

Mencken's Media Event

S. L. Harrison

Arguably, no other event in H. L. Mencken's newspaper career is linked closer to him than the 1925 Scopes trial in Dayton, Tennessee, the so-called "Monkey Trial." *Tennessee v. John Thomas Scopes* was a Mencken extravaganza; he gave the trial its derisive name and described it as "colossal buffoonery" [quotes are HLM's unless otherwise noted].

Thousands of words have been written of the event; much is anecdote or myth, however. Manchester's version in *Disturber of the Peace* is one of the best. Mencken's account in *Heathen Days* dwells on press antics. The memoirs in *Thirty-five Years of Newspaper Work* skirt important points. The popular idealization of the Scopes trial, portrayed in "Inherit the Wind," by Jerome Lawrence and Robert E. Lee, uses dramatic license to mix fact and fiction, misrepresent issues and produce bogus findings. School children are often assigned the work for class; Mencken would relish the irony and delight in the paradox.

The Scopes trial grew from diverse beginnings. The offense was a simple misdemeanor. The trial has been portrayed as a

battle centered on free speech and the First Amendment, ideals important to Mencken. The State was a reluctant prosecutor; the trial was instigated by the participants themselves. Moreover, events were manipulated adroitly by Mencken, aided and abetted by his employers, *The Sunpapers* of Baltimore. The Scopes trial was a media event (before that term was coined), concocted in large measure by a powerful lobby and influenced by media in a questionable role. Journalistic ethics unexplored in that era--conflict of interest, media making news and the like--were ignored. Media seventy years ago was predominantly print: newspapers and magazines, network radio was in its infancy (the trial was the first ever broadcast), motion pictures could not yet talk, and television unexplored theory. Media, led by Mencken, directly manipulated the participants and the trial.

Thus, the Scopes trial was more than a titanic battle of noble ideas waged by major figures of the American scene; it was a vehicle used for personal goals, political ambition, and petty vindictiveness. Its beginnings sprang unabashedly from commercial enterprise. Unquestionably, from the outset, the trial served as a public relations scheme dreamed up by promotion-minded civic boosters who saw opportunity to put their "obscure and happy" hometown of Dayton on the map. In the mid-1920s anti-Darwinian reaction arose across the American Southland. Mencken had long despaired over the South's barren intellectualism and its post-bellum backwardness; its culture provided him with ample ammunition and opportunity for acid comment. His 1917 essay,

"Sahara of the Bozart" in *The New York Evening Mail,* noted an "astounding orgy of puritanism that goes on in the South--an orgy of repressive legislation unmatched in the whole history of Christendom." Expectedly, Mencken was detested in the South.

When textbooks included Darwin's theory of evolution, of man from lower animals, and taught in public schools, that curriculum provoked reactionary legislation. State after state in the South passed resolutions and legislative bills prohibiting teaching evolution: Florida, Georgia, Kentucky, Texas, Arkansas and South Carolina. Beyond the Mason-Dixon line, other states, California and Minnesota, for example, endorsed similar measures in one house or another. Tennessee, however, became the first state to enact such legislation in both houses to escape veto by the Governor. Upon penalty of law by the sovereign state of Tennessee, teaching Charles Darwin's theory of evolution became illegal in public schools. The movement was generated by religious Fundamentalists and a groundswell of anti-intellectual sentiment abroad in America.

When the legislature of Tennessee passed the Butler Bill, after its author John Washington Butler, the bill became law when Governor Austin Peay signed it March 21, 1925. No one questioned his right to do so. Every local school district is within its Constitutional rights to direct what classrooms will admit. Today, pupils in Northern Virginia's public schools are prohibited from reading *The Adventures of Huckleberry Finn,* lest they encounter the word "nigger." A half-hundred other books are

banned elsewhere in as many school districts across America.

Mencken noted in a *Nation* article, "In Tennessee,"--

> No principle is at stake at Dayton save the principle that school teachers, like plumbers, should stick to the job that is set for them.... The issue of free speech is quite irrelevant. When a pedagogue takes his oath of office he renounces the right to free speech as certainly as a bishop does, or a colonel in the army, or an editorial writer on a newspaper.

Mencken, with tongue firmly in cheek, was attacking ignorance in action by populist democracy. Therefore, the Scopes trial was not about free speech or First Amendment rights. The courtroom drama sprang from legislation fostered by a stump speech that even its author admitted was introduced to pacify constituents. The governor made clear that nobody believed the Butler Act was to be an active statute, nor did it require the public schools to teach any one interpretation of creation. Governor Peay took an easy out, signed the measure and hoped that was the end of it. Trouble when it came was instigated by do-gooders, right-minded meddlers who often exasperated Mencken, but this time proved convenient.

The American Civil Liberties Union (ACLU), an active lobby group based in New York City, caught wind of the law from press clippings and sought a Tennessee plaintiff willing to test the case on First Amendment issues. The ACLU Board authorized a defense fund and sent a press release to Tennessee newspapers announcing its intentions and inviting a local teacher to cooperate. None did so.

In Dayton, George C. Rappelyea, a New York mining engineer

with a Ph. D., in charge of the local coal mining operations, read that nearby Chattanooga had abandoned plans to test the case. He conferred with the local druggist, F. E. Robinson, head of the county board of education, and Walter White, county superintendent of schools. Together at Robinson's Rexall Store, the drugstore that was a town center and book store, "the Acropolis and Mars' Hill of the town," they convinced an amiable local school teacher, John Scopes, who taught science and coached the football team, to test the law. Of course, Scopes admitted, he broke the law as did every other teacher who taught from the state-approved text, Hunter's *Civic Biology*. Scopes, initially reluctant, was persuaded that the case would provide publicity for Dayton, attract celebrities, maybe even H. G. Wells. Fame and prosperity would flow to Dayton. One of the complainants was Rappelyea. This was his contribution. Years later, Mencken notes, Rappelyea "was cackling over the stupendous success of his whimsy" and that he "detested [Dayton] and its people" and was "delighted" with how things turned out.

Thus was launched a venture that sought little more than publicity to promote business. The amateur public relations effort promised success. Prominent names would make news. Therefore, this group wired William Jennings Bryan to lead the prosecution. Bryan, however, invited himself before word reached him. He wanted to be part of this battle for the Lord and also make political hay. Bryan, once America's Populist hero, embraced prohibition and fundamentalism. Mencken saw him as a fraud.

Bryan, three-time Democratic candidate for the presidency, famed for his "Cross of Gold" speech and known as the "Great Commoner," served two terms in Congress and been editor of the Omaha *World-Herald*. As President Woodrow Wilson's Secretary of State, Bryan resigned in disapproval of the president's clear path into World War I, but had earlier supported Army incursions into Mexico. Out of office, Bryan continued to lecture and made millions in real estate speculation. In 1925 Bryan was in Coconut Grove, Florida, making more money in Coral Gables real estate and preaching to 4,000 every Sunday at Royal Palm Park. He personally drafted the anti-evolution bill that passed the Florida legislature. But Bryan lusted for national political office and the Scopes trial would attract attention, especially from the Fundamentalists who were his people. "For the first time," he told a fundamentalist conference, "I'm on the side of the majority" [Ginger, 44]. This majority could propel him into the White House. The Scopes trial would rally that majority.

John Randolph Neal, chief counsel for Scopes and former dean of the law school of the University of Tennessee, had been fired and given Peay a hard fight in the Democratic primary before losing; the issue was evolution. Neal had several scores to settle and from his viewpoint the Scopes issue was simple--

> The question is not whether evolution is true or untrue but involves the freedom of teaching, or what is more important, the freedom of learning [Ginger, 45].

Neal was promptly replaced by a man who disagreed. Mencken helped enlist Clarence Darrow, the nation's foremost criminal

trial lawyer, for the defense. Darrow and Bryan had clashed publicly over the evolution issue in the *Chicago Tribune*, and each h[illegible] a mutual dislike for the other. During a Richmond visit to James Branch Cabell, Mencken convinced Darrow to take the case. "Nobody gives a damn about that yap schoolteacher," Mencken said. He surely did not. Scopes, in his memoirs, recalls he never met or spoke to Mencken during the entire trial. The target was Bryan. Manchester quotes Mencken, "The thing to do is make a fool out of Bryan." This was the objective. Before proceedings began, Mencken parlayed in Baltimore with Scopes' ACLU defense team who sought acquittal for Scopes. This would not do for Mencken. A strategy for acquittal was "folly" and he said so. Acquittal would be an "empty victory" and "one day's headlines." But "smearing Bryan would be good for a long while." Mencken's goal was simple: "to make Tennessee forever infamous, and to that end the sacrifice of Scopes would be a small matter." No one informed Scopes. Thus, the battle was joined.

Mencken enlisted support of his Baltimore newspaper employer to underwrite Scopes' bond and related costs. *The Sunpapers* sent a healthy delegation from its two jointly-owned but competitive newspapers. Mencken filed dispatches for *The Evening Sun,* along with Henry M. Hyde. Frank R. Kent and J. Fred Essary represented the morning paper, *The Sun*, along with Edmund Duffy, the editorial page cartoonist. It was an impressive delegation, the cream of the *Sunpapers'* staff--and a large contingent. Reports vary as to the number of reporters present. Mencken reports

"about fifty" but others note anywhere from 50 to 200.

Hyde, Kent and Essary covered the trial in exemplary fashion, reporting day-to-day developments in the courtroom with generous coverage of the personalities and the testimony. Duffy contributed daily editorial cartoons along with stark and revealing sketches of the participants and the townspeople. The reporters' copy and Duffy's art were front-page news and first-rate coverage. Mencken's copy was sensational. Rodgers' useful collection provides readers with a generous baker's dozen of HLM's work, some of the best newspaper writing ever filed; outrageous and explosive, Mencken's brilliance at zenith.

Mencken spent some time on the trial but most of his copy focused on the ideas. His "Homo Neanderthalensis" dissected "inferior man against his better," i.e., class against class. On July 9th, Mencken was exploring Dayton's doubts about the kind of publicity it was generating in its trial against "the infidel Scopes." Mencken's adjectives describing the denizens of Dayton were inflammatory, e.g., *yokels, swine, morons, peasantry, boomers, barbarians*. Mencken wrote of the impossibility of obtaining a an impartial jury with biting levity, funny, that is if you were not from Dayton. His July 11th article assured readers that the trial had the air of a religious orgy and that Dayton, "the new Jerusalem," was infested with believers who never "doubted so much as a typographical error in Holy Writ." His report of a camp meeting gained immortality reworked and reprinted in *Prejudices, Fifth Series* as "The Hills of Zion."

Darrow's court appearance was reported by Mencken with the dire warning that the forces led by Bryan were not to be taken lightly: "The misdemeanor will grow to a felony" and "the year after that the net will be spread wider." He reminded readers that they laughed and dismissed the prohibitionists in 1914, and that the same error could happen again. Here Mencken comes closest to the intrinsic reasons underlying the trial and the dangers it posited enlightened thinking. Protection by Federal and State constitution, Mencken warned, is no assurance that free speech is guaranteed, especially when local law enforcement decides who is to speak: "liberty is one thing and license quite another." Tennessee has seen, warned Mencken, "its Bill of Rights made a mockery." Summing up the trial, Mencken observed that--

> On the one side was bigotry, ignorance, hatred, superstition, every sort of blackness that the human mind is capable of. On the other side was sense. And sense achieved a great victory.

Unquestionably, today much of Mencken's polemics would be unlikely to appear in print. His hyperbole described class division, mocked religious beliefs, and attacked bigotry intemperately. Fearful corporate lawyers, a litigious society and contemporary 'political correctness' would today conspire to silence a similar message in a metropolitan newspaper.

Mencken's stories were printed in the nearby Chattanooga *News* which, complained Mencken, was "making a frightful hash" of his work as the more offensive portions were edited-out. Even at home, one official from the Baltimore Association of Commerce complained to *The Sun* that Mencken's "unjust characterizations of

the people of the South" hurt business. In Dayton, local ire was generated against Mencken's public scorn, but he felt no real danger. In his account of the trial in *Heathen Days*, Mencken mostly recounted anecdotes of the newspapermen but carefully refuted rumors that his reporter's instinct deserted him or he fled Dayton in fear before the trial was over. Mencken's letters to Sara Powell Haardt confirm that he had a date certain to leave Dayton for New York.

Consequently, Mencken and Duffy departed Dayton, as did Kent, before the final confrontation between Darrow and Bryan. Bryan on the stand asserted that man was not a mammal and defended his Fundamentalist beliefs. The Mencken-Darrow strategy was fulfilled: make a fool of Bryan, and Bryan did so himself as he espoused the literal text of the Holy Bible. Publicly, it was a humiliating end for Bryan's career. Ironically, he thought his performance a triumph with Scopes' conviction. That weekend Bryan died after a gargantuan meal and many iced drinks in the simmering July heat. He had talked of a triumphant tour and future political glory before he napped and died of a stroke.

In an *Evening Sun* article the day following Bryan's death, Mencken wrote in part--

> It is a national custom to sentimentalize the dead, as it is to sentimentalize men about to be hanged. Perhaps I fall into that weakness here. The Bryan I shall remember is the Bryan of his last weeks on earth--broken, furious, and infinitely pathetic. It was impossible to meet his hatred with hatred to match it. He was winning a battle that would make him forever infamous wherever enlightened man remembered it and him.

Mencken met that hatred with his own revenge, however. The same day in a savage obituary in *The Evening Sun* (revised and reprinted in the October *American Mercury)*, HLM in perhaps one of his cruelest public acts wrote a lacerating and brutal revelation of his own clear hatred of Bryan, who--

> was, in fact, a charlatan, a mountebank, a zany without sense or dignity. His career brought him into contact with the first men of his time; he preferred the company of rustic ignoramuses. It was hard to believe watching him at Dayton, that he had traveled, that he had been received in civilized societies, that he had been a high officer of state. He seemed only a poor clod like those around him, deluded by a childish theology, full of an almost pathological hatred of all learning, all human dignity, all beauty, all fine and noble things. He was a peasant come home to the barnyard.

In an effort to atone, and meet the criticism, Williams records that Gerald W. Johnson was assigned to write a more fitting elegy in *The Sun*. Mencken wrote to Sara Haardt that "Bryan's death fills me with a sadness," but that may have been nothing more than a wooer's comment to a refined lady or merely the sadness that comes to any mortal reflecting on man's brief hour. Probably nearer the mark of HLM's feeling is Manchester's quotation of Mencken's: "Well, we killed the son of a bitch" [Manchester, 185].

The Scopes trial was not about freedom of speech or First Amendment rights. The trial could have been satisfied in an afternoon. The real purpose was to generate headlines, and that aim was backed by a powerful newspaper that forgot the role of a newspaper is to report news, not to manufacture news. Mencken's motivation fueled by personal rancor to settle scores, however

deserved, was simply to humiliate and destroy Bryan. The vehicle Bryan chose was Fundamentalism, another object of Mencken's scorn. In the end, Bryan destroyed himself given the national forum provided by Henry Mencken. The nation's press ridiculed Bryan mercilessly. Bryan was unquestionably sincere in his narrow beliefs, but also because of that reason, extremely dangerous.

Dayton's townspeople were swindled by an eager desire for fame and greedy hopes for local prosperity from a public relations-backed publicity spectacle. The publicity generated a carnival-like atmosphere that made their town and themselves the laughingstock of the nation. Like the young and inexperienced Scopes, the people of Dayton were willing, ill-used pawns in an enterprise they did not understand.

Mencken added to his own national reputation with some of the finest newspaper reporting ever produced. His colorful writing of the trial itself and Dayton's inhabitants, also made mockery of common virtues in which Americans believed. Tennessee will not be "forever infamous" as he hoped, however. Plain, unsophisticated people, ill-educated and ignorant, with a belief in God and victim of forces they could not comprehend were easy targets. Mencken equally scorned an intelligent minority, too timid and apathetic to oppose the dangers of ignorance. But the mountain folk he mocked also produced the likes of Sgt. Alvin York and James K. Polk. Dayton, and Tennessee, provided a convenient battleground against intolerance and a state of mind that endures to this day.

The ignorance and bigotry that Mencken deplored and castigated in Dayton did not disappear; it flourishes in modern America. Campaigns against "Godless" practices abound; directed teaching prevails, and banning books that offend continues. After the trial ended--the $100 fine voided on a technicality and the indictment quashed-- Dayton (and Scopes) returned to obscurity.

The Scopes trial is more complex than purported in the popular understanding. It sprung from questionable purposes; all parties concerned held dubious motivations and goals. Nevertheless, the Scopes trial and Mencken's commentary that it generated, provide valuable lessons seventy years after the event. Civil repression remains abundantly evident and pervasive whether from zealots of Fundamentalism, McCarthyism, or modern political correctness and requires vigilant and vigorous opposition. The message of the Scopes trial endures as a monument to Mencken; his legacy provides a metaphor for all individuals to protect and preserve their right of expression--to speak, to write, and to think--against any threat to freedom.

S. L. Harrison, associate professor, School of Communication, University of Miami, comments to the Mencken Society's summer meeting, June 24, 1995, Baltimore, Md.

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